## HIGH COURT OF CHHATTISGARH AT BILASPUR

## DIVISION BENCH

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**CORAM:** HON'BLE MR. VIJAY KUMAR SHRIVASTAVA & HON'BLE MR. DHIRENDRA MISHRA, JJ

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## MISCELLANEOUS APPEAL NO.622 OF 2006

**APPELLANTS**
(Claimants)

1. Smt. Girja Bai, widow of Late Shiv Kumar Singh Chauhan, aged about 28 years.
2. Ku. Kamini, daughter of Late Shiv Kumar Singh Chauhan, aged about 8 years.
3. Rupesh Kumar, son of Late Shiv Kumar Singh Chauhan, aged about 6 years.
4. Ku. Kadam, daughter of Late Shiv Kumar Singh Chauhan, aged about 4 years.
5. Gaukaran Singh, son of Late Bharat Singh, aged about 55 years.
6. Smt. Chitrekha, wife of Gaukaran Singh, aged about 48 years.

No.2 to 4 are minors through natural guardian mother-appellant No.1

All residents of village Kongiya-Kala, District Durg, at present

resident of Shankar Nagar, Tehsil & District Durg (C.G.)

Vs.

**RESPONDENTS**

1. Hemant Yadav, son of Punaram, Yadav, aged about 38 years, resident of Santarabadi, Durg, Tehsil & District Durg (C.G.)
2. The Manager, M/s Durg Bus Service, Durg, G.E. Road, Near Hanuman Mandir, Opposite New Bus Stand, Durg, Tahsil & Distt. Durg (C.G.)
3. Senior Branch Manager, The New India Insurance Company Ltd., Parakh Bhawan, Station Road, Durg, Tehsil & Distt. Durg.

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Present : Mr. Gautam Khetrapal, learned counsel for the appellants.

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**ORAL ORDER**

(Passed on 31st January, 2007)

Following oral order of the Court was passed by **Vijay Kumar Shrivastava, J:**

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 (henceforth "the Act, 1988") directed against the award dated 26.9.2006 passed by the 9th Additional Motor Accident Claims Tribunal (FTC), Durg (henceforth "the Tribunal") in Claim Case No.174/05 whereby a compensation of Rs.4,37,000/- has been awarded in favour of the appellants, feeling aggrieved this appeal for enhancement of compensation.

2. On 25.2.2005, when Shiv Kumar Chauhan (since deceased) was going to Gandai Petrol Pump along with his friend namely Peetambar in a Hero Puch moped, he met an accident with a bus bearing registration number CG07-ZA-0384. Shivkumar received injuries and succumbed to those. At the time of accident, respondent No.1 was driving the offending vehicle in a rash and negligent manner, it was owned by respondent No.2 and insured with respondent No.3. Appellants No.1 to 6, who are wife, children, father & mother of the deceased filed an application under Section 166 of the Act, 1988 for compensation of Rs.40,43,000/-. Respondents No.1 & 2 remained ex-parte and respondent No.3 contested the claim.

3. Learned counsel for the appellants contended that learned Tribunal erred in recording the deceased's monthly income. From perusal of the record and evidence adduced by the appellants, it is manifest that no legal evidence to establish income of the deceased has been adduced by the appellants. In those circumstances, learned Tribunal, for assessment, has correctly allowed monthly income Rs.3,000/- and accordingly, allowed compensation of Rs.3,60,000/- towards dependency. Learned Tribunal further allowed Rs.10,000/- to appellant No.1 towards consortium; Rs.45,000/- to appellants No.2 to 4 towards loss of love & affection; Rs.20,000/- to appellants No.5 & 6 towards loss of their son and also allowed Rs.2,000/- towards funeral expenses. Finding of facts recorded by the Tribunal does not appear to be illegal or perverse.

6. No other points have been raised during the course of arguments.

7. The appeal being devoid of merit is dismissed.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Dhirendra Mishra
Judge

Rashes